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PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032

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**DECLARATION
AND
POWER OF ATTORNEY
FOR UTILITY OR DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

☐ Declaration Submitted with Initial Filing **OR** ☒ Declaration Submitted after Initial Filing (Surcharge (37 CFR 1.16(e)) required)

| | |
|------------------------|--------------------|
| Attorney Docket Number | DEP 0639 |
| First Named Inventor | Christopher Rogers |
| COMPLETE IF KNOWN | |
| Application Number | 09/998,972 |
| Filing Date | 10/31/2001 |
| Group Art Unit | |
| Examiner Name | |

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Vertebral Endplate Chisel
(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 10/31/2001 as United States Application Number or PCT International Application Number and was amended on (MM/DD/YYYY)

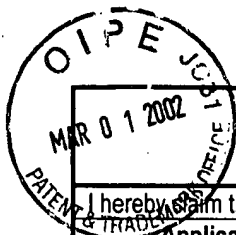
I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? | |
|-------------------------------------|---------|----------------------------------|--|--|--|
| | | | | YES | NO |
| | | | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:



DECLARATION - Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Date (MM/DD/YYYY) | |
|-----------------------|--------------------------|--|
| | | <input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto. |

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Application Serial No. | Filing Date | Status |
|------------------------|-------------|----------------------------------|
| | | Patented Patented Patented |

I hereby appoint:

☒ Practitioners at Customer Number **000927777** →

Place Customer
Number Bar Code
Label Here

AND

☒ Practitioner(s) named below:

| | |
|-------------------|----------------------------|
| <u>Name</u> | <u>Registration Number</u> |
| Thomas M. DiMauro | 35,490 |

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Address all telephone calls to Thomas M. DiMauro at telephone number (508) 880-8401.

Direct all correspondence to: ☐ Customer Number **000027777** OR ☒ Correspondence address below

Name: Philip S. Johnson

Address: One Johnson & Johnson Plaza

Address:

| | | |
|---------------------|---------------------------|---------------------|
| City: New Brunswick | State: NJ | ZIP: 08933 |
| Country: USA | Telephone: (732) 524-2368 | Fax: (732) 524-2808 |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle [if any]) Christopher

Family Name
or Surname Rogers

Inventor's
Signature

Christopher Rogers

Date

2/19/02

Residence: City Taunton

State MA

Country US

Citizenship US

Mailing Address 120 Dean Street, Apt. 304B

City Taunton

State MA

ZIP 02780

Country US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle [if any]) John Daniel

Family Name
or Surname Malone

Inventor's
Signature

J. Daniel Malone

Date

2-17-02

Residence: City Cumberland

State RI

Country US

Citizenship US

Mailing Address 50 Abbott Run Valley, Unit 1927

City Cumberland

State RI

ZIP 02864

Country US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle [if any])

Family Name
or Surname

Inventor's
Signature

Date

Residence: City

State

Country

Citizenship

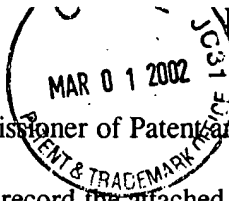
Mailing Address

City

State

ZIP

Country




RECORDATION FORM COVER SHEET
PATENTS ONLY

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Commissioner of Patent and Trademarks:

Please record the attached original documents or copy thereof.

| | | | |
|--|--|---|--|
| <p>1. Name of conveying party(ies):</p> <p><u>Christopher Rogers</u> <u>John Daniel Malone</u></p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | | <p>2. Name and address of receiving party(ies):</p> <p>Name: <u>DePuy Acromed Inc.</u></p> <p>Street Address: <u>325 Paramount Drive</u></p> <p>City: <u>Raynham</u> State: <u>MA</u> Zip: <u>02767</u></p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | |
| <p>3. Nature of conveyance:</p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date:</p> | | | |
| <p>4. Application number(s) or patent number(s):</p> <p>If this document is being filed together with a new application, the execution date of the application is:</p> <p>A. Patent Application No.(s) <u>09/998,972</u> B. Patent No.(s) _____</p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | | | |
| <p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p><u>Philip S. Johnson, Esq.</u> <u>Chief Patent Counsel</u> <u>Johnson & Johnson</u> <u>One Johnson & Johnson Plaza</u> <u>New Brunswick, NJ 08933-7003</u></p> | | <p>6. Total number of applications & patents involved: <u>1</u></p> <p>7. Total fee (37 CFR 3.41) <u>\$40.00</u></p> <p><input checked="" type="checkbox"/> Authorized to be charged to Deposit Account</p> <p>8. Deposit Account Number: <u>10-0750/TMD/DEP0639</u></p> | |
| <p>9. Statement and signature</p> <p><i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i></p> <p><u>Thomas M. DiMauro</u> <u></u> <u>Feb. 19, 2002</u></p> <p>Registration Number <u>35,490</u></p> <p>Name of Person Signing _____ Signature _____ Date _____</p> <p>Total number of pages including cover sheet, attachments, and document: <u>3</u></p> | | | |

Mail documents to be recorded with required cover sheet information to:

Box Assignments
Commissioner of Patent and Trademarks
Washington, D.C. 20231

A S S I G N M E N T

Serial No. 09/998,972
Filed 10/31/2001

WHEREAS, Christopher Rogers and John Daniel Malone, residing at 120 Dean Street, Apt. 304B, Taunton, MA 02780 and 50 Abbott Run Valley, Unit 1927, Cumberland, RI 02864 respectively (hereinafter called "Assignors"), have made certain new and useful inventions or discoveries relating to

Vertebral Endplate Chisel

for which they have on the 31st day of October, 2001 filed an application for Letters Patent of the United States; and

WHEREAS, DePuy AcroMed, a corporation of the State of Ohio, (hereinafter called "Assignee"), is desirous of acquiring Assignors' entire right, title, and interest therein:

NOW, THEREFORE, BE IT KNOWN that for and in consideration of the sum of One Dollar and other valuable considerations to them moving, the receipt of which is hereby acknowledged, Assignors have sold, assigned, and transferred, and do hereby sell, assign and transfer unto said Assignee their entire right, title and interest in and to all said inventions and discoveries disclosed in said application whose identification above by serial number and filing date, when available is hereby authorized, and in and to said application, all substitutions, divisions, and continuations thereof, and in and to all Letters Patent, United States and foreign, that may be granted for said inventions and discoveries, and in and to all extensions, renewals, and reissues thereof, the same to be held and enjoyed by said Assignee, its successors and assigns, as fully and entirely as the same would have been held and enjoyed by Assignors if this Assignment and sale had not been made;

And Assignors hereby authorize and request the Commissioner of Patents of the United States to issue said Letters Patent in accordance with this Assignment;

And for the consideration aforesaid, Assignors covenant and agree with said Assignee that he has a full and unencumbered title to the inventions and discoveries above described and hereby assigned, which title they warrant unto said Assignee, its successors and assigns;

My commission expires: 10/2/03